

**REMARKS**

Claims 1 – 27 were previously pending in this application. By this amendment, Applicant is canceling claim 11 without prejudice or disclaimer. Claims 1, 18, 22, and 27 have been amended. As a result claims 1 – 10 and 12 – 27 are pending for examination with claims 1 and 22 being independent claims. No new matter has been added. Support for the amendments is found, for example, in original claims 11 and 27.

**Rejection under 35 U.S.C. §112**

The Office Action rejected claim 1 under 35 U.S.C. §112, second paragraph, as being indefinite. Claim 1 has been amended to overcome this rejection. Applicant respectfully submits that claim 1 recites a method claim. Accordingly, withdrawal of the rejection of claim 1 under 35 U.S.C. §112, second paragraph, is respectfully requested.

The Office Action rejected claim 22 under 35 U.S.C. §112, second paragraph, as being indefinite. Claim 22 has been amended to overcome this rejection, as the acronym “TDM” is spelled out in the claim. Accordingly, withdrawal of the rejection of claim 22 under 35 U.S.C. §112, second paragraph, is respectfully requested.

**Rejections Under 35 U.S.C. §102**

The Office Action rejected claims 1 – 5, 7 – 13, and 16 – 21 under 35 U.S.C. §102(e) as being anticipated by Algie, U.S. Patent No. 7,283,551 (hereinafter Algie). In response, Applicant submits the following with respect to the Algie reference.

Algie relates to dedicated and shared timeslotting in a point to consecutive point environment. (Abstract.) Algie carries bursted native media data flows over a standard Ethernet point-to point physical layer (PHY) by introducing a TDM Burst Media Access Control (MAC) device that resides between a Standard Ethernet MAC and a Standard Ethernet PHY. (Column 4, lines 36 – 41.) The TDM Burst MAC allows unframed native TDM data flows to be bursted onto an Ethernet First Mile (EFM) where packetization of TDM is avoided. (Column 4, lines 43 – 45.)

Independent claim 1 recites in part:

receiving, from at least one TDM source, at least one timeslot associated with a TDM communication; inserting the at least one received timeslot into a packet; transmitting the packet to a destination capable of recovering the at least one timeslot from the transmitted packet; and receiving the packet at the destination, wherein the act of receiving does not include the use of a jitter buffer at the destination.

Applicant respectfully submits that Algie does not disclose at least the above quoted claim elements. Algie discloses TDM transport that integrates a TDM Burst MAC between Standard Ethernet PHY and Standard Ethernet MAC layers. (Column 6, lines 5 – 8.) As Algie itself states, “[t]he TDM Burst MAC allows unframed native TDM data flows to be bursted onto an Ethernet First Mile (EFM) where packetization of TDM is avoided.” (Column 4, lines 43 – 45.) Algie further states that “TDM data flows may be carried natively rather than adding packetization resources.” (Column 4, lines 63 – 64.) Algie explicitly states that TDM data flows are not packetized. (Id.)

Independent claim 1 recites “receiving, from at least one TDM source, at least one timeslot associated with a TDM communication; inserting the at least one received timeslot into a packet; and transmitting the packet to a destination capable of recovering the at least one timeslot from the transmitted packet.” As indicated above, Algie directly teaches away from this element by stating that packetization of TDM data flows is avoided.

Algie further states that packetization of data flows is required for some forms of TDM transmission. (Column 1, lines 49 – 50.) However, as is made explicit in Algie, this too is different from Applicant’s claim 1. Algie states that one of two methods of TDM data packetization involves packetized Time Division Multiplexing over Internet Protocol (TDMoIP). (Column 1, lines 50 – 52.) As stated in Algie, “TDMoIP requires extensive computing resources, such as... jitter dynamic input/output (i/o) buffering...” (Column 1, lines 54 – 60.) This is the exact opposite of Applicant’s claim 1, which recites “wherein the act of receiving does not include the use of a jitter buffer.” Algie directly teaches away from this element, which is recited in Applicant’s claim 1.

Applicants note that any modification to Algie to include jitter buffering or to include TDM packetization would render Algie unsatisfactory for its intended purpose, and such a combination would be improper under MPEP 2143.0V. See Algie, at column 1, lines 63 – 65,

where Algie states that “TDMoIP is not cost effective or efficient for metro networking on Synchronous Optical Network (SONET).”

MPEP 2131 instructs that to anticipate a claim, the reference must teach every element of the claim. In order to meet this exacting standard, each and every element as set forth in the claim must be found, either expressly or inherently described, in a single prior art reference. Because Algie does not disclose “receiving, from at least one TDM source, at least one timeslot associated with a TDM communication; inserting the at least one received timeslot into a packet; and transmitting the packet to a destination capable of recovering the at least one timeslot from the transmitted packet... wherein the act of receiving does not include the use of a jitter buffer” as recited in claim 1, Applicant respectfully submits claim 1 is allowable and requests withdrawal of this rejection as it pertains to independent claim 1 and dependent claims 2 – 10 and 12 – 21 that depend therefrom.

The Office Action rejected claims 22 – 27 under 35 U.S.C. §102(e) as being anticipated by Algie. In response, Applicant submits the following with respect to the Algie reference.

Independent claim 22 recites in part:

a second TDM communication entity coupled to the first TDM communication entity through a packet-based network, wherein the first TDM communication entity is adapted to transmit a packet to the second TDM communication entity through the packet-based network, the packet including the at least one timeslot, wherein the second TDM communication entity does not implement a jitter buffer to receive one or more packets

With reference to the above discussion, Algie does not disclose at least a system “wherein the first TDM communication entity is adapted to transmit a packet to the second TDM communication entity through the packet-based network, the packet including the at least one timeslot, wherein the second TDM communication entity does not implement a jitter buffer to receive one or more packets” as recited in independent claim 22. Accordingly, Applicant respectfully submits claim 22 is allowable and requests withdrawal of this rejection as it pertains to independent claim 22 and dependent claims 23 – 27 that depend therefrom.

Rejections Under 35 U.S.C. §103

The Office Action rejected dependent claims 6, 14, and 15 under 35 U.S.C. §103(a) as being unpatentable over Algie in view of Baydar, et al., U.S. Patent No. 6,333,940 (hereinafter Baydar). In response, Applicant submits the following with respect to the Algie and Baydar references.

With reference to the above discussion, Algie does not disclose at least “receiving, from at least one TDM source, at least one timeslot associated with a TDM communication; inserting the at least one received timeslot into a packet; and transmitting the packet to a destination capable of recovering the at least one timeslot from the transmitted packet... wherein the act of receiving does not include the use of a jitter buffer” as recited in independent claim 1, from which claims 6, 14, and 15 depend.

Baydar does not cure the deficiencies of Algie. Baydar relates to a digital loop carrier system that converts digital and optical signals. (Column 3, lines 8 – 28). Like Algie, Baydar also does not disclose at least “receiving, from at least one TDM source, at least one timeslot associated with a TDM communication; inserting the at least one received timeslot into a packet; and transmitting the packet to a destination capable of recovering the at least one timeslot from the transmitted packet... wherein the act of receiving does not include the use of a jitter buffer” as recited in independent claim 1.

MPEP 2143.03 instructs that all limitations of a claim must be considered and given weight. Because Algie does not include “receiving, from at least one TDM source, at least one timeslot associated with a TDM communication; inserting the at least one received timeslot into a packet; and transmitting the packet to a destination capable of recovering the at least one timeslot from the transmitted packet... wherein the act of receiving does not include the use of a jitter buffer” and because this infirmity of Algie is not cured by any combination with Baydar, Applicant respectfully submits that no combination of these cited documents can possibly form a basis for rejecting these claims under 35 USC §103(a). Further, and as stated above, any such combination would render Algie unsatisfactory for its intended purpose, in violation of MPEP 2143.0V. (See Algie at column 1, lines 50 – 65.)

Dependent claims 6, 14, and 15 depend from independent claim 1. As discussed above, Applicant respectfully submits that independent claim 1 is allowable. Accordingly, withdrawal of this rejection is respectfully requested at least because these claims each depend from an allowable base claim.

**CONCLUSION**

In view of the foregoing amendments and remarks, reconsideration is respectfully requested. This application should now be in condition for allowance; a notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an enclosed payment, please charge any deficiency to Deposit Account No. 50/2762, Ref. No. N2001 700010.

Respectfully submitted,

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